

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

WESLEY T. MOORE,)	
)	
Plaintiff,)	
)	Case No. CIV-11-86-M
v.)	
CITY OF OKLAHOMA CITY and)	JURY TRIAL DEMANDED
DANIEL GODSIL,)	
)	
Defendants.)	

ANSWER OF DEFENDANT CITY OF OKLAHOMA CITY

COMES NOW a Defendant, the City of Oklahoma City, and for its Answer to the Petition of Plaintiff filed herein, alleges and states the following:

1. In response to ¶ 1 of the Petition, Defendant City states it has no knowledge as to where the officers parked their vehicles and that portion of this paragraph is denied. However, it is admitted that the Plaintiff was at his home and that the officers “arrived in the street”.

2. In response to ¶ 2 of the Petition, Defendant City admits that the Plaintiff asked the officers to move their vehicles, and that he was arrested after he refused to move out of the street as requested by the officers. The remaining allegations in said paragraph are denied.

3. In response to ¶ 3 of the Petition, Defendant City admits that Plaintiff was booked into the Oklahoma County Jail but states it is without sufficient knowledge to admit

or deny that he was compelled to submit to fingerprinting or photographing of his person and those allegations are denied; Defendant City denies that the Jail has facilities (other than an office for its personnel) provided for its use.

4. Defendant City denies ¶ 4 of the Petition and any new allegation in the prayer for relief in his first cause of action.

5. In response to the second paragraph numbered 4 in the Petition, Defendant City realleges and restates ¶¶ 1-4 of its Answer herein.

6. In response to ¶ 5 of the Petition, Defendant City states it is without sufficient knowledge to admit or deny said paragraph, and therefore, said allegations are treated as denied.

7. Defendant City admits ¶ 6 of the Petition.

8. In response to ¶¶ 7 and 8 of the Petition, Defendant City states said paragraphs contain no allegation as to it, and no answer is required.

9. In response to ¶ 9 of the Petition, Defendant City states that charges were initially filed against Plaintiff in its Municipal Court, however, said charges were dismissed as a result of the City's investigation into Plaintiff's citizen complaint.

10. To the extent that ¶¶ 10 and 11 (the first ¶ numbered 11) of the Petition pertain to it, Defendant City denies said paragraphs.

11. Defendant City denies the second paragraph numbered 11, however, if true, then Defendant City would be entitled to Judgment on Plaintiff's State law claims (first cause of action) against it.

AFFIRMATIVE DEFENSE

1. Plaintiff's Petition fails to state a claim upon which relief can be granted against it under Federal or State law.

2. That Plaintiff's claims under the first cause of action against Defendant City are governed by the terms of the Governmental Tort Claims Act, 51 O.S. §§ 151, *et seq.*, including but not limited to limits of liability and exemptions from liability.

3. That on Plaintiff's State law claims, Plaintiff's own actions contributed to his arrest in such degree as to bar this action and/or reduce his damages, if any.

WHEREFORE, Defendant City prayerfully requests that this Court grant it Judgment against Plaintiff, it's costs and attorney fees.

Respectfully submitted,

KENNETH JORDAN
Municipal Counselor

By: /s/ Richard C. Smith
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CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of January, 2011, I electronically transmitted the attached Answer of Defendant City to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants: Rex Brooks, 1904 N.W. 23rd Street, Oklahoma City, Oklahoma 73106, Attorney for Plaintiff; and Susan K. Knight, 211 North Robinson Avenue, Suite 800N, Oklahoma City, Oklahoma 73102, Attorney for Defendant Godsil.

/s/ Richard C. Smith

Assistant Municipal Counselor